

## 48A C.J.S. Judges § 197

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### VII. Compensation and Fees

#### B. Amount

#### 2. Change in Amount During Term of Office

##### a. General Considerations

## § 197. Increase or decrease of salary during term

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(7)

**Unless forbidden or restricted by constitution or statute, the compensation of a judge may be increased or diminished during the term of office, but a power to increase compensation does not include a power to decrease it.**

The salaries paid to judges are not contractual rights,<sup>1</sup> and unless forbidden or restricted by constitution or statute, the compensation of a judge may be increased or diminished during the continuance of the term of the judge's office.<sup>2</sup> Thus, the legislature may, in the absence of constitutional provision to the contrary, change the compensation of a judge<sup>3</sup> during the term of office.<sup>4</sup> A constitutional provision prohibiting the legislature from decreasing the salaries of judges, by implication, authorizes increasing them.<sup>5</sup>

The power to increase judicial compensation does not include a power to decrease it,<sup>6</sup> and a constitutional provision or statute authorizing local authorities to pay additional compensation to resident judges does not include implied power to reduce such compensation, once the express power has been exercised.<sup>7</sup> However, the rule is otherwise where the additional sums paid do not become salary within the meaning of the constitutional provision.<sup>8</sup>

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### Footnotes

- 1 U.S.—*Hatter v. U.S.*, 31 Fed. Cl. 436 (1994), judgment rev'd on other grounds, 64 F.3d 647 (Fed. Cir. 1995), judgment aff'd, 519 U.S. 801, 117 S. Ct. 39, 136 L. Ed. 2d 3 (1996).
- 2 Utah—*In re Christensen*, 2013 UT 30, 304 P.3d 835 (Utah 2013).  
  
Ga.—*Houlihan v. Atkinson*, 205 Ga. 720, 55 S.E.2d 233 (1949).  
  
W. Va.—*Harbert v. Harrison County Court*, 129 W. Va. 54, 39 S.E.2d 177 (1946).
- 3 Ark.—*Duty v. City of Rogers*, 255 Ark. 309, 500 S.W.2d 347 (1973).  
  
Ky.—*Sarakatsannis v. Baker*, 488 S.W.2d 683 (Ky. 1972).  
  
Ohio—*MacDonald v. Bell*, 23 Ohio App. 2d 249, 52 Ohio Op. 2d 385, 262 N.E.2d 707 (7th Dist. Columbiana County 1970).
- 4 La.—*Drew v. Parker*, 249 So. 2d 356 (La. Ct. App. 1st Cir. 1971).  
  
Ohio—*MacDonald v. Bell*, 23 Ohio App. 2d 249, 52 Ohio Op. 2d 385, 262 N.E.2d 707 (7th Dist. Columbiana County 1970).  
  
Wis.—*State ex rel. Sachtjen v. Festge*, 25 Wis. 2d 128, 130 N.W.2d 457 (1964).
- 5 Ala.—*Stone v. State*, 20 Ala. App. 69, 101 So. 58 (1924).  
  
N.Y.—*Broome County v. Bates*, 197 Misc. 88, 95 N.Y.S.2d 248 (Sup 1950), judgment aff'd, 302 N.Y. 587, 96 N.E.2d 892 (1951).
- 6 N.Y.—*Benventa v. La Guardia*, 294 N.Y. 526, 63 N.E.2d 88 (1945).
- 7 Mich.—*Deneweth v. Green*, 32 Mich. App. 439, 189 N.W.2d 10 (1971).  
  
Wis.—*State ex rel. Conway v. Elvod*, 70 Wis. 2d 448, 234 N.W.2d 354 (1975).
- 8 Ga.—*MacNeill v. Howard*, 185 Ga. 85, 194 S.E. 582 (1937).